

Proposed Repeal of Chapter 184 of Title 15, Hawai'i Administrative Rules ("HAR"), entitled "Rent Supplement Program"; and Adopt Proposed New Chapter 2033 of Title 17, HAR, entitled "Rent Supplement Program" which is substantially based on Chapter 15-184, HAR, and includes the proposed amendments to Chapter 15-184, HAR, previously adopted by the HPHA Board of Directors on January 21, 2016, and sets forth the rules and requirements for HPHA's Rent Supplement Program which is a program that offers rent subsidies to a qualified person or family

Chapter 15-184 to be renumbered Chapter 17-2033, and "Housing and Community Development Corporation of Hawaii" or "Corporation" to be replaced with "Hawaii Public Housing Authority" or "Authority";

Replace references to Chapter 201G, Hawaii Revised Statutes with Chapter 356D, Hawaii Revised Statutes;

New Section 17-2033-2 [Definitions] Includes and clarifies definitions of various terms:

"Applicant" means an individual or family who submits an application to participate in the program but is not yet a participant in the program.

"Authority" means the Hawaii public housing authority.

"Criminal activity" means any act or conduct which constitutes a criminal offense under any Federal or State law, rule or regulation, or county or municipal ordinance, committed by a tenant, a member of the tenant's household, a guest of the tenant or any person who is on the premises with the express or implied consent of the tenant, regardless if the person engaging in the act or conduct has been arrested or convicted for the applicable criminal offense.

"Drug" means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. §802) as it existed on March 28, 2013.

"Elderly" means a family whose head, spouse, or sole member or spouse has attained the age of sixty-two.

"Family" means:

- (1) One or more persons who live or intend to occupy a dwelling unit and whose income and resources are available to meet the family's need and who may, but need not be, related by blood, marriage, or operation of law, including foster children and hanai children and whose head of household has reached the age of majority, or is otherwise legally emancipated;
- (2) A person who is pregnant or in the process of securing legal custody of a minor child or children, and who

has reached the age of majority or is otherwise emancipated.

"Foster children" means a person or persons, under eighteen years of age, who may not be related to the foster parent by blood, marriage, or adoption and who is in need of parenting care.

"Gender identity or expression" includes a person's actual or perceived gender, as well as a person's gender identity, gender-related self-image, gender-related appearance, or gender-related expression, regardless of whether that gender identity, gender-related self-image, gender-related appearance, or gender-related expression is different from that traditionally associated with the person's sex at birth.

"Housing owner" means the same as defined in §356D-152, HRS, and may include an agent of an owner.

"Program" means the rent supplement program administered by the authority.

"Security deposit" means a monetary deposit required by a landlord prior to occupancy of the dwelling unit.

"Staff" means the employees or agents of the authority.

"U.S.C." means the United States Code.

"Violent criminal activity" means any criminal activity that includes the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage. [Eff: 10/25/99; am

New Section 17-2033-3 [Income limits] References HUD-determined very low income limits;

§17-2033-3. Income limits. To be eligible to participate or continue participation in the program, an applicant's or tenant's adjusted household income shall not exceed the very low income limits most recently determined by ~~[the calculation using the method set forth in exhibit A, entitled "Method for Calculating Income Limits", located at the end of this chapter.]~~ the U.S. Department of Housing and Urban Development.

New Section 17-2033-11 [Application] Requires household social security number and waiting list;

§17-2033-11 Application. (a) A person seeking to participate in the program shall submit a completed application form, provided by the authority. The form shall include, but not be limited to, information relating to household income, household composition, social security number or certify that the member does not have a social security number for each

household member, evidence of citizenship or eligible immigrant status as provided under 14 C.F.R. 5.508, as amended, for each household member, financial condition, and other program information necessary to determine eligibility and program demographics.

(b) The applicant shall be placed on a waiting list upon submission of a completed application form. Placement on a waiting list shall not be deemed a determination on eligibility or admission.

(c) An applicant who has misrepresented material information or has willfully withheld important information on the application form submitted to the authority shall not be eligible to file an application with the authority for twelve months from the date of written notification from the authority.

New Section 17-2033-12 [Verification] Requires household member social security number;

§17-2033-12 Verification. Applicants and tenants in the program shall provide, prior to admission or as the authority may require, documentation setting forth information concerning household income, household composition, social security number or certify that the member does not have a social security number for each household member, evidence of citizenship or eligible immigrant status as provided under 24 C.F.R. 5.508, as amended, for each household member, financial condition or other information as may be requested.

New Section 17-2033-13 [Eligibility for participation] Clarifies applicant eligibility with regard to residence, property ownership, payment, social security number provision, no threat of abusive or violent behavior toward staff, and citizenship];

§17-2033-13 Eligibility for participation. To be eligible to participate or continue participation in the program, the applicant and applicant's household members or tenant and tenant's household members shall:

- (1) Qualify as a household;
- (2) Have an adjusted household income which does not exceed the applicable income limit;
- (3) Have assets which do not exceed the applicable asset limit;
- (4) Have earning capabilities or whose financial situation gives reasonable assurance of meeting the rental payments on time as they become due;
- (5) Not own, in whole or a majority interest in, a dwelling unit ~~[on the same island on which they seek assistance under the program;]~~ in the state of Hawaii;

- (6) Not have an outstanding debt owed to the authority;
- (7) Be eligible for a monthly rent supplement payment of a minimum of ~~[\$15 or more,]~~ \$25 and not more than \$500;
- (8) Provide a social security number for all family members or certify that the person does not have a social security number;
- (9) Meet all requirements of part III, chapter 356D, HRS;
- (10) Have their primary place of residence in Hawaii;
- (11) Not have a recent history of criminal activity involving crimes to persons or property or criminal acts that affect the health, safety, or right to peaceful enjoyment of the premises by other residents. A person convicted for such a crime shall not be eligible for participation in the program until three years after completion of probation or the serving of the sentence;
- (12) Not have been evicted from any of the authority's housing programs for drug related criminal activity for three years prior to admission. For purposes of this subsection, in determining eligibility, the authority may consider whether the evicted applicant or household member has successfully completed a rehabilitation program approved by the authority, or whether the circumstances leading to eviction no longer exist;
- (13) Not engage in any drug related or violent criminal activity. For the purposes of this subsection, "violent criminal activity" means any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another;
- (14) Not engage in the illegal use of a controlled substance or give the authority reasonable cause to believe that the illegal use of a controlled substance, pattern of illegal use, abuse of alcohol, or pattern of abuse of alcohol may interfere with the health and safety of the residents, or the right to peaceful enjoyment of the premises by other residents;
 - (A) For the purposes of this subsection "reasonable cause to believe" means by the preponderance of the evidence;
 - (B) For the purposes of this subsection, in determining whether to deny eligibility based on a pattern of use of a controlled substance or a pattern of abuse of alcohol, the authority may consider rehabilitation as provided for under 42

U.S.C. §13661(b) (2) (A)-(C) effective October 1, 1999;

- (15) Except for a newborn child, a person shall not be permitted to join or rejoin the household until it is verified that the person meets the eligibility requirements set forth in this section;
- (16) Not engage in or threaten abusive or violent behavior toward the authority's staff. For purposes of this subsection, "threaten" means an oral or written threat or physical gestures that communicate intent to abuse or commit violence. Abusive or violent behavior may be verbal or physical and include racial epithets, or other language, written or oral, that is customarily used to intimidate;
- (17) Not cause any harm or damage to the authority, its staff, agents, representatives, or programs; and
- (18) Furnish evidence of citizenship or eligible immigrant status as provided for in 24 C.F.R. §5.508, as amended.

Newly added Section 17-2033-21 [Nondiscrimination] Nondiscrimination provision added consistent with U.S. Fair Housing Act;

§17-2033-21 Nondiscrimination. (a) The authority shall not deny any family or individual the opportunity to apply for or receive assistance under this chapter on the basis of race, color, sex, religion, marital status, creed, national or ethnic origin, age, familial status, gender identity, sexual orientation, handicap or disability or HIV infection.

(b) The authority shall comply with state and federal nondiscrimination laws and with rules and regulations governing fair housing and equal opportunity in the administration of the Program.

The authority shall provide a family with the United States Department of Housing and Urban Development discrimination complaint form and information on how to file a fair housing complaint if the family claims that discrimination prevented them from finding or leasing a suitable unit under the Program.

Newly added Section 17-2033-22 [Waiting list] Provides procedures for waiting list of applicants;

§17-2033-22 Waiting list. (a) The authority shall maintain a statewide waiting list of applicants who may be eligible to obtain a certification of rent supplement eligibility.

(b) Placement of applicants on the waiting list shall be based upon the following:

(1) Applicable preference, if any; and
(2) Date and time of application's receipt.
(c) An applicant must notify the authority, at least annually, of any change that may affect the applicant's place on the waiting list and the authority's ability to contact the applicant. Changes include, but are not limited to, familial status, financial status, preference status, mailing address and current residence.

Section 17-2033-31 [Rent supplement] Includes a maximum rent supplement payment amount of \$500;

§17-2033-31 Rent supplement payments. (a) The authority shall pay directly to the housing owner, or authorized representative, on behalf of a tenant, a monthly amount which is the difference between the established monthly rent for the tenant's dwelling unit and the tenant's allocable share of rent as established in §17-2033-32; provided that the authority shall not make payments on behalf of any tenant that exceeds \$500.

(b) Rent supplement payments will be made on behalf of a tenant for the period that the rental unit is occupied; except that if the tenant vacates the dwelling unit without proper notice, rent supplement payments will be continued to the time that the rental agreement could legally be terminated or to the date that the unit is re-rented, or to the last day of the month that the tenant vacated the unit and rent supplement payment was already made, whichever comes first.

Section 17-2033-33 [Reexamination] Provides that reexamination shall be performed either in person or via mail;

§17-2033-33 Reexamination. (a) The authority shall review the household's income, household composition and any other related matter to adjust, if necessary, the tenant's allocable share of monthly rent and the authority's rent supplement payment.

(b) A non-elderly household shall be reexamined at least once every twelve months.

(c) An elderly household shall be reexamined at least once every twenty-four months.

(d) If at the time of admission or annual reexamination, a household's income cannot be reasonably determined for the next twelve months, a six month reexamination may be scheduled.

(e) The tenant's allocable share of monthly rent shall be adjusted between reexaminations when a person with income is added to the household and the adjustment shall be effective on the first day of the second month following the approved inclusion.

(f) Reexamination shall be performed either in-person or via mail.

Inserted Reserved Sections at 17-2033-7 to 17-2033-10; 17-2033-14 to 17-2033-20; 17-2033-27 to 17-2033-30; 17-2033-35 to 17-2033-40; 17-2033-45 to 17-2033-50; and 17-2033-55 to 17-2033-60; and